HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.5403 of 2006

Date of decision : 13.10.2006.

Manmohan Kumar **.....Petitioner**

versus

Kuldeep Singh **.....Respondent**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Vikas Jain, Advocate for the petitioner.

-.-

ORDER

HEMANT GUPTA, J. (oral)

The plaintiff mortgagee is in revision petition aggrieved against the order of the First Appellate Court, whereby he was permitted to take his tractor trolley on the adjacent land of the mortgager once in a week.

The petitioner has taken the land on mortgage measuring 8 biswas vide registered mortgage deed dated 30.4.2004. It is the condition of the mortgage deed that mortgagee can use the adjacent land of the mortgagor for passing his tractor trolley in emergency. Since the petitioner intended to use the adjacent land of the mortgagor for tractor trolley on daily basis, the defendant resisted such action which led the filing of the present suit.

The First Appellate Court while interpreting the terms of the mortgage deed held that the petitioner does not have the right to use the land of the mortgagor on daily basis, but such use is permitted only in case of emergency. To regulate the use, the Court has permitted the petitioner to take his tractor trolley once in a week from the adjacent land of the mortgagor.

Learned counsel for the petitioner has vehemently argued that the petitioner is not being permitted to take his tractor trolley in terms of the order passed by the First Appellate Court and that other than tractor trolley, the petitioner has a right to use the passage over which right was given to the petitioner while effecting the mortgage deed.

After hearing the learned counsel for the petitioner, I do not find any ground to interfere in the finding recorded by the First Appellate Court, at this stage. I do not find that any grievance is made in respect of right to use passage. The petitioner has been permitted to use the adjacent land of the mortgagor for passing his tractor trolley once in a week, though mortgage contemplated user only in case of emergency, in terms of the order passed by the learned First Appellate Court.

I do not find any illegality or irregularity in the finding recorded by the First Appellate Court, which may warrant interference by this Court in its revisional jurisdiction.

Dismissed in limine.

(HEMANT GUPTA)
JUDGE

October 13, 2006.

**mohinder*